IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELATE CIVIL JURISDICTION

WRIT PETITION NO.2177 OF 2004

Smt.Manubai Yuvraj Fadol ..Petitioner
Vs.
Nasik Municipal Corpn. & Anr. ..Respondents

Mr.Uday Warunjikar for Petitioner
Mr.C.R.Sonawane, A.G.P. for Respondent no.2
Mr. R.V. More for Respondent no.1.

CORAM: F.I. REBELLO &
S.P. KUKDAY, JJ.
DATE: 8TH FEBRUARY, 2005.

P.C.

. The land of the petitioner was reserved under D.P. Plan for Police Head Quarters by the D.P. Plan of 1972 for Nasik Road, Devlali Municipal Council. That area is subsequently included within the area of Nasik Municipal Corporation. The reservation has been continued and notified and has come in to force on 16th November, 1993.

2. It is the case of the petitioner that he serviced notice dated 29th April, 2003 amongst others on the State of Maharashtra. No steps have been taken to acquire the land and considering Section 127 of the M.R.T.P.Act Petitioner is entitled for the relief of mandamous to release the land from reservation.

3. On the other hand on behalf of the

respondent State Government, an affidavit has been filed by Mr. R.B. Pathak. It his contention that the acquisition is for the Police Head Quarters, the notice has not been served on the Police Department and as such the notice is not valid in law.

4. On the consideration of Section 127 of the M.R.T.P. Act, notice has to be served on the Planning Authority, Development Authority or appropriate authority. Appropriate Authority has been defined under Section 2(3) to mean the public authority for whose behalf, land is reserved for public purpose or plan or scheme or which it is authorised to acquire. In the instant case as the land is reserved for Police Head Quarters, it is the State Government which for the acquisition of land can be said to be the Appropriate Authority. The case of the petitioner is that he has served notice on the appropriate authority. The contention of the respondent State is that it was not served with the notice and it is not a proper notice. Petitioner further points out that the copy of the notice was served on the Police Commissioner.

. The petitioner till now has not applied for development of the land. On a perusal of Section 127, it would indicate that on service of notice and failure by the respondent to take steps for

acquisition there is a deemed de-reservation. Once that be the position in law there is no question of this Court granting mandamus directing de-reservation of the land under section 127.

. By order dated 2nd February, 2005 we had called on the State Government to indicate as to whether any steps had been taken or any notice received to acquire the land. Two affidavits have been filed, this aspect has not been dealt with. The only contention is that the notice was not served on the appropriate authority. Learned A.G.P. orally points out that as per his instructions, no steps have been taken yet, for acquisition of the land.

5. If the petitioner applies for development and that is rejected, then only this Court could interfere with the order of rejection, considering the deemed de- reservation. Considering the relief as now sought it will not be possible to grant the relief as prayed for. With the above observations petition is disposed of. No orders as to costs.

(F.I.REBELLO,J.)

(S.P. KUKDAY,J.)